

**GUIDELINES OF THE IDAHO
SEXUAL OFFENDER CLASSIFICATION BOARD**

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LEGAL AUTHORITY

I. Section 18-8314(2), Idaho Code. Pursuant to Section 18-8314(4), Idaho Code, the Idaho Sexual Offender Classification Board (Board) shall establish standards for psychosexual evaluations and the qualifications for approved evaluators performing evaluations.

II. Section 18-8314(3), Idaho Code. Pursuant to Section 18-8314(5), Idaho Code, the Board shall establish guidelines to determine whether an offender scheduled for release is a violent sexual predator (VSP) presenting a high risk of reoffense.

TITLE AND SCOPE

I. Title. These guidelines shall be cited as “Guidelines of the Idaho Sexual Offender Classification Board.”

II. Scope. These guidelines are established to govern the duties and responsibilities delegated to the Board by law pursuant to Title 18, Chapter 83, Idaho Code and Title 42, Section 14071, United States Code.

PSYCHOSEXUAL EVALUATION

Psychosexual evaluation reports shall be written following the “required Format for Psychosexual Evaluation Reports” as referenced in IDAPA 57.01.01.004. Rules Governing the Sexual Offender Classification Board.

VIOLENT SEXUAL PREDATOR CLASSIFICATION

I. Demonstration of Risk. The Board determines if a prima facie case exists to justify the sexual offender’s designation as a VSP. A sexual offender shall be designated as a VSP if his risk of reoffending sexually or threat of violence is of sufficient concern to warrant the designation for the safety of the community. Risk assessment factors to be considered by the Board shall include but not be limited to the general categories referenced in Section 18-8314(5)(b), Idaho Code:

- A. Seriousness of the offense;
- B. Offense history;
- C. Whether the offense was predatory;
- D. Characteristics of the offender;
- E. Characteristics of the victim;

- F. The relationship of the offender to the victim;
- G. The number of victims;
- H. The number of violations of each victim; and
- I. Other considerations.

In addition to these factors, the Board shall consider the results of one or more actuarial risk assessment instruments recognized in the sex offender assessment and treatment field to assist in the prediction of sexual and/or violent reoffense. These instruments may include but are not limited to the MnSOST-R, STATIC-99, RRASOR, and SORAG.

The person being reviewed should be determined to be a “moderate or high” risk on one or more of these risk assessment scales unless there are particular idiosyncratic factors in the case such as:

- A. The offense history includes severe violence or extraordinary harm;
- B. Sexual deviancy (e.g. sexual interest in children, sexual arousal to violence, sexual preoccupation);
- C. General antisocial orientation (e.g. antisocial personality disorder, high PCL-R score);
- D. History of rule violations (e.g. non-compliance with supervision, institutional misbehavior, violation of conditional release);
- E. Other salient characteristics such as:
 - 1. Attitudes tolerant of sexual offending;
 - 2. Emotional identification with children;
 - 3. Lack of community support;
 - 4. Returning to environment similar to the environment where sexual offenses occurred;
 - 5. Community treatment failures or lack of entry into community treatment.

In VSP determinations, consideration may be given to protective factors which often lessen risk in otherwise dangerous sexual offenders, including but not limited to:

- A. Advanced age;
- B. Lifetime supervision;
- C. Documented intervention such as successfully completing sex offender treatment followed by or in conjunction with a period of 20 years or more during which the offender did not reoffend or engage in high risk behavior and had access to potential victims (was not incarcerated);
- D. Offender has developed an incapacitating illness or physical condition that decreases motivation or ability to sexually reoffend (example: later stages of a terminal illness).

The Board considers all cases on their individual merits, and reserves the right to deviate from established rules whenever special circumstances warrant, and to act at its discretion in circumstances not specifically outlined but within confines established by the statutes.

II. Comprehensive Psychosexual Evaluation. Offenders will be evaluated on a comprehensive basis as set forth in IDAPA 57.01.01.004.04. Rules Governing the Sexual Offender Classification Board. The Board will seek to identify and evaluate how factors such as biological, psychological, and situational factors, alone or in combination, may cause or contribute to the offender's sexual behavior.

A. The psychosexual evaluation will be conducted upon the offender's referral for review by the Board. The evaluator will inform the offender that the purpose of the psychosexual evaluation is part of the decision to determine if the offender should be classified as a violent sexual predator and that failure to cooperate may result in a violent sexual predator designation. The offender will sign a form indicating the offender's informed consent. The IDOC, Commission for Pardons and Parole, or Court will determine which offenders should be referred to the Board.

B. The Board may conclude from the evidence that an offender has or probably has a mental abnormality or personality disorder as defined in IDAPA 57.01.01.010. Rules Governing the Sexual Offender Classification Board, and that such disorder causes or contributes to the offender's risk of re-offense or threat to the community. The Board may designate an offender as a violent sexual predator with or without a finding of a mental abnormality or personality disorder.

C. Documentary evidence may be received in the form of copies or excerpts. Official notice may be taken of any facts that could be judicially noticed in the courts of this state, and generally recognized technical or scientific facts within the Board's specialized knowledge. The Board's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence. The chairman may exclude evidence that is irrelevant, unduly repetitious, or excludable on constitutional or statutory grounds. The Board is not obligated to accept or review oral statements or documents, other than those of the victim. All other evidence may be admitted.

III. Failure to Cooperate.

Public safety takes precedence over the decision of a sexual offender not to cooperate with the evaluation for VSP designation review. The sexual offender shall be informed that the Board may designate an offender as a VSP if he fails to cooperate with the psychosexual process or refuses to release records for the Board's VSP designation review.

IV. Intention to Re-Offend.

If credible evidence supports a finding that a sexual offender has indicated an intention to reoffend, the sexual offender shall be referred to the Board for VSP designation review. Pursuant to Section 18-8314(6), Idaho Code, the sexual offender shall be designated as a VSP.

V. Scope of Evaluation.

The Board and the evaluator conducting the psychosexual evaluation may have access to and may review all obtainable records on the sexual offender to conduct the VSP designation assessment. If required, the offender shall sign a release of information to comply with state or federal regulations.

VICTIMS

I. Constitutional Rights. The Board will respect and comply with the rights of victims as identified in Section 19-5306, Idaho Code and Article I, Section 22, Idaho Constitution.

II. Victim Confidentiality Protected. Communications between the Board and victim, person representing the victim, or both, are confidential. Information identifying the victim or location of the victim is exempt from disclosure, pursuant to Title 18, Chapter 83, Idaho Code.

Appendix A.

FACTORS USED IN ACTUARIAL INSTRUMENTS

MnSOST-R Items:

1. Number of sexual convictions
2. Length of sex offending history
3. Under supervision when committed sex offense
4. Force or threat of force used to commit sex offense
5. Any sex offense involving multiple acts per incident
6. Two or more age groups of victims
7. Offended against 13 to 15 year old and the offender was more than 5 years older than victim
8. Whether victim was a stranger in any sex offense
9. Evidence of adolescent antisocial behavior
10. Pattern of substantial drug/alcohol abuse for 12 months prior to arrest for the instant offense or revocation
11. Unstable employment for 12 months prior to arrest for instant offense
12. Disciplinary history while incarcerated
13. Chemical dependency treatment while incarcerated
14. Sex offender treatment while incarcerated
15. Age of offender at release (30 years or younger)

RRASOR Items (sub-set of Static 99):

1. Prior sexual offenses
2. Age of release (less than 25)
3. Victim gender (higher risk if male victim)
4. Relationship to victim (related or non-related)

Static 99 (items in addition to RRASOR items):

1. Ever lived with an intimate partner (less than 2 years duration increases risk)
2. Convictions for non-sexual violence at time of sex offense
3. Prior non-sexual violence, any convictions
4. Prior sentencing dates, not counting current offense. (If 4 or more, higher risk)
5. Any conviction for non-contact sex offenses (e.g. paraphilias – exhibitionism, voyeurism, frottage, etc.)
6. Stranger victim (knew victim less than 24 hours)

Appendix A. continued...

SORAG:

1. Lived with biological parents to age 16 (except for death of parent)
2. Elementary school maladjustment (up to and including 8th grade). The more severe, the higher risk.
3. History of alcohol problems in client, his/her parents, or alcohol involved in sex offense
4. Marital status, never married is higher risk
5. Criminal history scores for convictions and charges for non-violent offenses prior to current or most recent sex offense
6. Criminal history score for convictions and charges for violent offenses prior to current or most recent sex offense
7. Number of convictions for previous sexual offenses prior to current or most recent sex offense, including hands off offense such as exhibitionism
8. History or sexual offenses against girls under 14, including current or most recent offense. Higher risk if offender was more than 5 years older than victim.
9. Failure on conditional release, probation revocation, bail violation, new charges, etc.
10. Age at current or most recent offense. Higher risk age 26 or below. Less risk 28 or above and significantly less risk age 39 or above.
11. Meets DSM criteria for any personality disorder
12. Meets DSM criteria for schizophrenia, if so - less risk
13. Phallometric test results, any deviant preference increases risk
14. Hare Psychopathy Checklist (PCL-R) score, risk increases above score of 25, and much greater above score of 35